

1 BARRY J. PORTMAN
Federal Public Defender
2 REBECCA SULLIVAN SILBERT
Assistant Federal Public Defender
3 555 - 12th Street
Suite 650
4 Oakland, CA 94607-3627
Telephone: (510) 637-3500
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6 Counsel for Defendant NEVES
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)	No. CR-07-0791 CW
)	
12 Plaintiff,)	REQUEST FOR BRIEFING SCHEDULE
)	FOR GOVERNMENT APPEAL OF
13 vs.)	TEMPORARY RELEASE ORDER
)	
14 ROCKY NEVES,)	
)	
15 Defendant.)	
_____)	

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17 On April 3, 2008, defendant Rocky Neves moved for an order of temporary release so
18 that he could get married. The request was necessary because Mr. Neves has no identification,
19 and his fiancée was unable to get a marriage license without Mr. Neves' identification. She
20 could get a certificate of non-appearance, but the certificate required a notarized statement that he
21 could not appear, and the notary wouldn't notarize the certificate without Mr. Neves'
22 identification documents. Thus, Mr. Neves presented three sureties to the Court, and sought an
23 order releasing him on Thursday night so that he could get married Friday morning (April 4) and
24 self-surrender to the Marshal's Office by 1:00 p.m. on April 4. The Court granted Mr. Neves'
25 request, and declined to stay the Order. The government appealed. This Court granted the
26 request for a stay.

1 Mr. Neves respectfully requests that the Court set a briefing schedule for the
2 government's appeal of the release order, or, if the Court would be willing to entertain the
3 government's appeal without receiving written papers beforehand, that the Court set a hearing
4 date on the government's motion. Section 3145(b) of Title 18 allows the government to appeal a
5 magistrate's release order, but in order to do so the government must file a motion for revocation
6 or amendment of the order. 18 U.S.C. § 3145(b).

7 Here, the government has declined to file a written motion under 18 U.S.C. § 3145(b).
8 Although the original release order was dated April 3 and required self-surrender on April 4, the
9 substance of the release order – that is, release for less than 24 hours with three sureties and self-
10 surrender the next day by 1:00 – remains the same, and Mr. Neves persists in his request for the
11 temporary release. The government has indicated that it is appealing the substance of the release
12 order, as well as the denial of a stay. Therefore, Mr. Neves respectfully requests that the Court
13 set a briefing schedule, or set a date to hear the government's motion.

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15 Dated: April 7, 2008

16 Respectfully submitted,

17 BARRY J. PORTMAN
18 Federal Public Defender

19 /S/

20 REBECCA SULLIVAN SILBERT
21 Assistant Federal Public Defender
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